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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRIAN SCIARA,

Plaintiff,

v.

STEPHEN CAMPBELL,

Defendant.

Lead/Base Case No.:
2:18-cv-01700-DJA

Consolidated Case No.:
2:21-cv-00309

**STIPULATION AND ~~PROPOSED~~
ORDER TO MODIFY/AMEND
DISCOVERY PLAN & SCHEDULING
ORDER
(Fifth Request*)**

AND ALL RELATED MATTERS.

Pursuant to FRCP 16(b)(4), LR IA 6-1, and LR 26-3, STEPHEN CAMPBELL (“Campbell”), SPROUT FINANCIAL, LLC (“Sprout”), BRIAN SCIARA (“Sciara”), CAPFUND ENTERPRISES, INC. D/B/A CAPFUND FINANCIAL (“CapFund”), and FUNDED LLC (“Funded”) (collectively, as the “Parties”), by and through their respective counsel of record, the law firms of HOLLAND & HART LLP and MORTENSON & RAFIE, LLP, hereby stipulate and agree to a sixty (60)-day extension to the current deadlines set forth in the Amended Discovery Plan and Scheduling Order (ECF No. 176) (“DPSO”) and respectfully request that the Court approve their proposed schedules set forth herein so as to allow the Parties to focus their efforts and resources on negotiating a potential settlement for global resolution of both cases. This is the fifth request for an extension to the DPSO applicable to both consolidated cases (ECF Nos. 87,

104, 132, 141, 153, 176).¹ This request is submitted at least twenty-one (21) days or more before the current DPSO deadlines and is supported by good cause. In support of this Stipulation and Order, the Parties state as follows:

I. STATEMENT SPECIFYING THE DISCOVERY COMPLETED

A. Base Case – 2:18-cv-01700-DJA

Campbell has served his Initial Disclosures and sixteen (16) supplemental disclosures.

Sciara has served his Initial Disclosures and seven (7) supplemental disclosures.

Sciara and Campbell have disclosed initial experts and completed limited expert discovery relating to valuation in connection with prior settlement efforts.

Sciara and Campbell have propounded and served respective responses to certain written discovery: Campbell's First and Second Set of Requests for Production of Documents ("RFPs") to Sciara; Sciara's First, Second, and Third Set of RFPs to Campbell; Sciara's First Set of Interrogatories ("ROGs") to Campbell; and Sciara's First Set of Requests for Admissions ("RFAs") to Campbell.

The depositions of Sciara, Campbell, Shawn Kinney, and Micah Kinsler have been taken.

B. Consolidated Case – 2:21-cv-00309

Sprout has served his Initial Disclosures.

Sciara, CapFund, and Funded have served Initial Disclosures and one (1) supplemental disclosure.

Sprout has propounded, and Sciara, CapFund, and Funded have served responses to, Sprout's First and Second Set of RFPs, First and Second Set of ROGs, and First and Second Set of RFAs. A dispute exists as to whether the requests in Sprout's Second Set of RFAs have been deemed admitted by Sciara.

¹ Prior to consolidation and remand of the base case (2:18-cv-01700-DJA) by the Ninth Circuit, there were several amendments, modifications, and/or stays of the DPSO applicable to the base case. (*See, e.g.*, ECF No. 45). On April 19, 2021, the Court approved and entered a certain Amended DPSO (ECF No. 104) submitted and stipulated to by the Parties, which reset the underlying discovery deadlines following remand and considering the consolidation of cases.

1 Sprout has served notices of intent to serve subpoenas duces tecum on various third party
2 individuals and entities.

3
4 **II. SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE COMPLETED**

5 The Parties have yet to complete the following discovery: additional written discovery as
6 needed; additional third party subpoenas; the depositions of named parties, of Rule 30(b)(6)
7 designees for entity parties, and of other percipient witnesses; additional follow up written
8 discovery following depositions; expert and rebuttal expert disclosures and reports; and
9 depositions of initial and rebuttal experts.

10 **III. REASONS WHY THE DEADLINE WAS NOT SATISFIED OR THE REMAINING DISCOVERY WAS NOT COMPLETED WITHIN THE TIME**
11 **LIMITS SET BY THE DISCOVERY PLAN**

12 The requested sixty (60)-day extension is sought in good faith, not for purposes of undue
13 delay, and supported by good cause.

14 The Parties are currently exploring and discussing potential resolution of both cases and
15 agree that a 60-day extension of all pending deadlines (*i.e.*, discovery and forensic examination
16 deadlines) is necessary to facilitate the settlement process and would allow the Parties to focus
17 their efforts and resources on negotiating a potential settlement, which if successful, could be a
18 global resolution of both actions. All parties in the related state and federal actions have agreed to
19 participate in a global settlement conference, tentatively set for August 16, 2022.

20 Accordingly, based on the foregoing, the Parties submit that good cause exists for
21 granting the requested sixty (60)-day extension of the discovery deadlines.

22 **IV. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY**

<u>FRCP 26(f); LR 26-1(b)</u>	<u>Current</u>	<u>Proposed</u>
Discovery Cut-Off:	11/28/2022	1/27/2023
Amending Pleadings/Adding Parties:	08/29/2022	10/28/2022
Initial Expert Disclosures:	09/23/2022	11/22/2022
Rebuttal Expert Disclosures:	10/31/2022	1/2/2023

Dispositive Motions: 12/26/2022 2/24/2023

Joint Pretrial Order: 01/30/2023 3/31/2023

V. CONCLUSION

Based on the foregoing and for good cause appearing, the Parties respectfully request that the Court approve their Stipulation and request for a sixty (60)-day extension of all pending discovery deadlines so as to allow the Parties to focus their efforts and resources on settlement negotiations and enter an order amending the DPSO (ECF No. 153) based on the proposed dates set forth above.

DATED this 19th day of July 2022.

HOLLAND & HART LLP

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Sciara*

IT IS SO ORDERED:



DANIEL J. ALBRECHTS
UNITED STATES MAGISTRATE JUDGE

DATED: July 20, 2022

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I hereby certify that on the 19th day of July 2022, I served a true and correct copy of the foregoing **STIPULATION AND [PROPOSED] ORDER TO MODIFY/AMEND DISCOVERY PLAN & SCHEDULING ORDER (Fifth Request*)** as follows:

☒ Filed electronically via the Court's CM/ECF system and notice of filing will be served on all parties by operation of the Court's CM/ECF filing system, and parties may access this filing through the Court's CM/ECF system.

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